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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,616	03/28/2001	Katherine G. August	August 34-54	1720
7590 12/06/2005 Harness, Dickey & Pierce, P.L.C. P.O. Box 8910 Reston, VA 20195			EXAMINER THEIN, MARIA TERESA T	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,616

Applicant(s)

AUGUST ET AL.

Examiner

Marissa Thein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39,41-94 and 96-108 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39,41-94 and 96-108 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-7-05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicants' "Amendment" filed on September 19, 2005 has been considered.

Claims 40 and 95 are cancelled. Claims 1-39, 41-94 and 96-108 are pending in this application and an action on the merits follows.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on November 7, 2005 is being considered by the examiner. However, the article "An indoor wireless system for personalized shopping assistance" was not considered because there was no copy provided.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5, 11-20, 28-39, 41-42, 45-56, 61-84, 91-92, and 96-108 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,587,835 to Treyz et al.

Regarding claim 1, Treyz discloses a wireless apparatus for processing customer orders comprising: a communication transceiver for broadcasting a wireless signal to

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establish a wireless communication link with a mobile customer within a predetermined distance of a vendor facility (Figure 107; col. 21, lines 53-60; col. 21, lines 64-col. 22, line 5; col. 24, lines 27-29); a control circuit coupled to said transceiver for controlling said transceiver to establish the communication link with the mobile customer and for receiving a wireless order from said customer, the control circuit causing said received order to be processed to fulfillment (Figure 107; col. 22, lines 5-15; col. 24, lines 27-39; col. 61, lines 9-13).

Regarding claims 5, 11-19, and 91-92, Treyz discloses communicates customer order information to an inventory control system (col. 33, lines 37-39); Bluetooth (col. 13, line 28-31; col. 15, lines 27-35; col. 15, lines 49-50); transmit menu items to a wireless customer (col. 21, lines 11-35; Figure 40); transmit promotional specials to a wireless customer (col. 21, lines 11-24; col. 27, lines 22-30; Figure 46); the menu items are transmitted upon the establishment of the communication link with a customer (col. 21, lines 11-35; Figure 40); the menu items are transmitted until a customer completes an order (col. 3, lines 16-25; Figure 79; col. 48, lines 13-20); the promotional specials are transmitted upon the establishment of the communication link with a customer (col. 21, lines 11-24; col. 27, lines 22-30; Figure 46); a speech recognition unit (col. 16, lines 29-30; col. 17, lines 11-15); the promotional specials are transmitted until a customer completes an order (col. 27, lines 22-30; Figure 46; col. 48, lines 13-34).

Regarding claims 20 and 28-30, Treyz discloses the processable information into a customer order of an ordering system; the control circuit computes a monetary total for an entered order and causes the transceiver to transmit the monetary total to a

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customer; the monetary total is transmitted as a displayable amount; and the monetary amount is transmitted as an audible amount (Figure 25; Figure 76; col. 16, lines 1-4; col. 16, lines 56-65; col. 21, line 64 – col. 22, line 15; col. 33, lines 45-54; col. 46, lines 11-23).

Regarding claims 31-39, Treyz discloses control circuit processes payment information received through the transceiver; credit card information; debit card information; prepaid account information; information for billing a pre-existing customer account; wireless service account; information authorizing a charge to a customer account and a customer verification code for verification of the authorization; customer network account; and a customer telephone account (col. 1, lines 59-65; col. 14, lines 52-56; col. 17, line 60-col. 18, line 42).

Regarding claims 41-42, 45-56, 61, 96-97 and 101, Treyz discloses control circuit determines from customer transmissions an identity of the customer; the control circuit causes the transceiver to transmit order status information to a customer; the action includes the transmission of a message from the agent through the transceiver to a customer; the control circuit operates the transceiver to send an audio message to a customer; the control circuit operates the transceiver to send a display message to a customer; the control circuit receives a customer identification transmission from the transceiver, and operates the transceiver to transmit a customer favorites list to the customer; a customer identification transmission from the transceiver and provides the customer identification information to a customer priority database (Claim 49); the control circuit receives a customer identification transmission from the transceiver and

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provides the customer identification information to a customer loyalty database (Claim 50); control circuit is operative to establish a secure financial transaction link for processing a received customer transaction amount authorization; the order is an order for goods; order is an order for service; and the control circuit is a distributed processing control circuit which comprises at least two processing units, each processing an aspect of the order; control circuit is operative to cause the transmission of directions to a fulfillment station, to complete a processed order to a customer; the transmission of directions in response to a request for directions received from a customer; and the fulfillment station is a drive-through window (Figure 42; Figure 43; col. 10, lines 39-41; col. 16, lines 57-64; col. 17, lines 5-10; col. 17, lines 60-65; col. 18, lines 41-51; col. 18, lines 59-61; col. 18, line 67-col. 19, line 1; col. 19, lines 54-56; col. 21, lines 1-35; col. 21, line 64-col. 22, line 15; col. 23, lines 36-56; col. 26, lines 16-19; col. 57, line 59 – col. 58, line 12; col. 64, lines 25-26;).

Regarding claims 62 and 102, Treyz discloses a personal wireless communications apparatus and a method of operating a wireless customer communications device comprising: a display device; an input device; a wireless transceiver; and a control circuit (col. 16, lines 15-45). Furthermore, Treyz discloses broadcasting a wireless signal to establish a wireless communication link with a wireless customer communication device within a predetermined distance of a vendor transaction facility; and establishing the wireless communication link with the vendor transaction facility when the wireless customer communications device is within th predetermined range of the facility; and exchanging order information with the vendor

transaction facility for fulfillment at a vendor fulfillment station which is accessible by the customer.

Regarding claims 63-69 and 103-104, Treyz discloses the control circuit stores information regarding available vendors in defined areas, the control circuit being responsive to an input indicating a location of the apparatus to display on the display device those vendors which are in an area where the apparatus is located; a positioning indication system for providing location information of the apparatus to the control unit; responsive to an input at the input device to display on the display device a list of types of services for a customer choose from; responsive to an input at the input device to display on the display device a list of types of products for a customer to choose from; a type of service and product to further display on the display device those vendors which are proximate to the apparatus which provide the selected services; and initiate a wireless communication with the selected vendor (col. 16, lines 16-30; col. 16, lines 36-40; col. 19, lines 54-60; col. 28, lines 40-43; col. 64, lines 25-36; Figure 37; Figure 40; Figures 41-43; Figure 45; Figure 76).

Regarding claims 70-79, and 105-108, Treyz discloses location information to be transmitted to the vendor; receives and processes directions to the vendor; provides the selected product to operate the transceiver to initiate a wireless communication with the selected vendor; to send customer identification information to the vendor as part of the order information; to send payment information to the vendor as part of the order information; to send order selections to the vendor as part of the order information; display a menu available items received from a vendor; display an amount due for an

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order; to send a request for directions to the vendor facility; to indicate to a customer received directions to the vendor facility; a drive-through fulfillment station; and displaying a menu of items available at the vendor facility at the wireless customer communication device (Figures 40-43; Figure 45; col. 18, lines 41-61; col. 18, line 67-col. 19, line 1; col. 21, lines 1-35; col. 21, line 64-col. 22, line 15; col. 23, lines 36-56).

Regarding claims 80-83, Treyz disclose a wireless apparatus at a vendor facility comprising: a communication transceiver and a control circuit coupled to the transceiver (Figure 1; Figure 2; Figures 14-15; col. 13, lines 10-37; col. 21, lines 1-35; col. 21, line 65 – col. 22, line 15; col. 22, lines 43-54). Treyz disclose a control circuit is located at a vendor facility containing the transceiver; located at a vendor facility remote from a location of the transceiver; and is connected to the transceiver through a network (Figure 1; Figure 2; col. 13, lines 10-37; col. 21, line 65 – col. 22, line 42; col. 22, lines 43-54; col. 22, line 65 – col. 23, line 7; col. 24, lines 30-39; Figure 19; Figures 14-15).

Regarding claims 84, Treyz disclose a method for processing customer orders at a vendor transaction facility comprising: broadcasting a wireless signal to establish a wireless communication link with a mobile customer within a predetermined distance of a vendor transaction facility; establishing the wireless communication link; and receiving a wireless order from the customer (Figure 1; Figure 2; Figures 14-15; Figure 19; col. 13, lines 10-37; col. 21, lines 1-35; col. 21, line 65 – col. 22, line 42; col. 22, lines 43-54; col. 22, line 65 – col. 23, line 7; col. 24, lines 30-39).

Regarding claims 98-100, Treyz disclose examining a profile for the mobile customer and using information in the profile during processing of the order; the

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customer profile contains a list of the mobile customer's favorite items for ordering; receiving and storing information about the customer in a customer database (col. 47, lines 30-35; col. 47, line 54-col. 48, line 9; col. 48, lines 35-42).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3, 21, 57, 70-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,587,835 to Treyz et al. in view of U.S. Patent No. 5,991,739 to Cupps et al.

Regarding claims 2-3, 21, and 57, Treyz substantially discloses the claimed invention, however, it does not explicitly disclose the display device to indicate the locations of customers communicating with the transceiver; the display device to indicate the status of orders placed by customers communicating with the transceiver; the display device to display the entry of a customer order into the ordering system; and a plurality of communications channels which enable the transceiver and control circuit to simultaneously communicate with a plurality of customers. Treyz discloses a system which allows users to obtain information having a computing device by using a local and remote wireless link (col. 1, lines 42-43). Treyz does disclose a global positioning

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system (col. 23, lines 36-38). Treyz also discloses location-determination arrangements (col. 24, lines 17-19).

Cupps, on the other hand, teaches the display device to indicate the locations of customers communicating with the transceiver; the display device to indicate the status of orders placed by customers communicating with the transceiver; the display device to display the entry of a customer order into the ordering system; and a plurality of communications channels which enable the transceiver and control circuit to simultaneously communicate with a plurality of customers (Figure 1; Figure 2; col. 4, lines 13-16; col. 5, lines 3-4; col. 5, lines 28-50; col. 6, lines 21-30; col. 10, lines 21-26; col. 10, lines 54-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the apparatus of Treyz, to include the display device to indicate the locations of customers communicating with the transceiver; the display device to indicate the status of orders placed by customers communicating with the transceiver and a plurality of communications channels which enable the transceiver; the display device to display the entry of a customer order into the ordering system; and control circuit to simultaneously communicate with a plurality of customers, as taught by Cupps, in order to manage the distribution of ordered products over a distributed computer system (Cupps, col. 2, lines 20-22).

Claims 4, 6-9, and 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,587,835 to Treyz et al. and U.S. Patent No.

5,991,739 to Cupps et al. as applied to claims 1 and 84 above, and further in view of U.S. Patent No. 2002/059111 to Ding et al.

Treyz and Cupps substantially discloses the claimed invention, however, the combination does not explicitly disclose the customer orders is arranged in a queue and operates and display device to display the queue of customer orders; customer orders are arranged in a first-in-first-out queue; customer orders are arranged in queue based on customer distance from a fulfillment station; customer orders are arranged in queue based on time and customer priority; simultaneously display a plurality of pending customer orders; arranges the plurality of pending customer orders in a queue and displays the queued orders on the displayed device; the display device to simultaneously display the locations of customers communicating with the apparatus; receiving and processing to fulfillment at a customer accessed vendor fulfillment station a plurality of orders; and arranging the orders from the plurality of customers. The combination discloses user's location may be provided with the order or used to process the order (Treyz col. 64, lines 24-25). The order of this type may be allowed only from in-store customers in the vicinity of the store or orders from in-store customers may be given priority over other orders (col. 64, lines 25-29).

Ding, on the other hand, teaches the customer orders is arranged in a queue and operates and display device to display the queue of customer orders; customer orders are arranged in a first-in-first-out queue; customer orders are arranged in queue based on customer distance from a fulfillment station; customer orders are arranged in queue based on time and customer priority; simultaneously display a plurality of pending

customer orders; arranges the plurality of pending customer orders in a queue and displays the queued orders on the displayed device; the display device to simultaneously display the locations of customers communicating with the apparatus; receiving and processing to fulfillment at a customer accessed vendor fulfillment station a plurality of orders; and arranging the orders from the plurality of customers (paragraph 10; paragraph 25; paragraph 26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination to include, the customer orders is arranged in a queue and operates and display device to display the queue of customer orders; customer orders are arranged in a first-in-first-out queue; customer orders are arranged in queue based on customer distance from a fulfillment station; customer orders are arranged in queue based on time and customer priority; receiving and processing to fulfillment at a customer accessed vendor fulfillment station a plurality of orders; and arranging the orders from the plurality of customers, as taught by Ding, in order to provide a no-wait method for placing and filling an order (Ding, paragraph 45).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,587,835 to Treyz et al. and U.S. Patent No. 5,991,739 to Cupps et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,979,757 to Tracy et al.

Treyz and Cupps substantially discloses the claimed invention, however, the combination does not disclose LAN IEEE 802.11 compliant communication link. The combination discloses wireless communication paths such as a local area network

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which may act as a local access point to a larger communication network (Treyz, col.13, line 33-37).

Tracy, on the other hand, teaches LAN IEEE 802.11 compliant communication link (col. 4, lines 64-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination to include, LAN IEEE 802.11 compliant communication link, as taught by Tracy, in order to communicate over a network (Tracy, col. 4, lines 64-65).

Claims 22-27, 43-44, and 93-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,587,835 to Treyz et al. in view of U.S. Patent 6,026,375 to Hall.

Treyz substantially discloses the claimed invention, however, it does not explicitly disclose an agent station. Treyz discloses control circuitry which may be based one or more processors such as a microprocessor or microcontroller, application specific integrated circuits and digital signal processors and any other suitable type of processor or control circuitry (col. 16, lines 25-31). The communication circuitry and accessories may include antennas, transmitter/receivers, and other communications circuitry and may be used to handle wired and wireless communications tasks (col. 16, lines 42-45).

Hall, on the other hand, teaches an agent station (col. 6, line 45 – col. 8, line 42).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Treyz, to include the agent station, in order to provide the capability of autonomously initiate actions (Hall, col. 6, lines 51-52).

Claims 85-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,587,835 to Treyz et al. in view of U.S. Patent No. 2002/059111 to Ding et al.

Treyz substantially discloses the claimed invention, however, the Treyz does not disclose receiving and processing to fulfillment at a customer accessed vendor fulfillment station a plurality of orders; arranging the orders from the plurality of customers; queue are arranged in a first-in-first-out queue; arranged in queue based on customer distance form a fulfillment station; and customer orders are arranged in queue based on time and customer priority. Treyz discloses user's location may be provided with the order or used to process the order (col. 64, lines 24-25). The order of this type may be allowed only from in-store customers in the vicinity of the store or orders from in-store customers may be given priority over other orders (col. 64, lines 25-29).

Ding, on the other hand, teaches receiving and processing to fulfillment at a customer accessed vendor fulfillment station a plurality of orders; arranging the orders from the plurality of customers; queue are arranged in a first-in-first-out queue; arranged in queue based on customer distance form a fulfillment station; and customer orders are arranged in queue based on time and customer priority (paragraph 10; paragraph 25; paragraph 26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Treyz, to include, receiving and processing to fulfillment at a customer accessed vendor fulfillment station a plurality of orders; arranging the orders from the plurality of customers; queue are arranged in a first-in-first-out queue; arranged in queue based on customer distance from a fulfillment station; and customer orders are arranged in queue based on time and customer priority, as taught by Ding, in order to provide a no-wait method for placing and filling an order (Ding, paragraph 45).

Response to Arguments

Applicant's arguments with respect to claims 1-39, 41-94, and 96-108 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

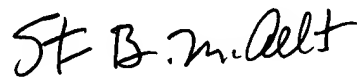
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Mtot
November 26, 2005



STEVE B. MCALLISTER
PRIMARY EXAMINER